

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION**

**IN RE: AME CHURCH EMPLOYEE  
RETIREMENT FUND LITIGATION**

**No. 1:22-md-03035-STA-jay**

**ALL CASES**

**ORDER PARTIALLY GRANTING AND PARTIALLY DENYING  
MOTION TO AMEND SCHEDULING ORDER AND  
COMPEL DEPOSITIONS OF SYMETRA'S EXPERT WITNESSES**

Plaintiffs have filed a Motion to Amend Scheduling Order and Compel Depositions of Symetra's Expert Witnesses. (ECF No. 790.) The AMEC Defendants have joined in the motion. (ECF No. 791), and Symetra has filed a response to the motion. (ECF No. 793.) For the reasons set forth below, the motion is **PARTIALLY GRANTED** and **PARTIALLY DENIED**.

Symetra does not oppose the portion of Plaintiffs' motion seeking to extend the time to submit their rebuttal expert reports. Accordingly, that portion of the motion is granted. The deadline for rebuttal expert reports is extended from May 2, 2025, to May 23, 2025, and the deadline for the close of expert discovery is extended from May 23, 2025, to June 13, 2025. However, the portion of the motion seeking to order Symetra to make its five expert witnesses who were disclosed on April 11, 2025, available to be deposed prior to the new deadline for rebuttal expert reports is denied.

In their motion, Plaintiffs contend that they need to depose Symetra's experts in order to fully understand their opinions in preparation for serving rebuttal reports, while Symetra has responded that it is standard practice to produce rebuttal reports prior to deposing the opposing

parties' experts and that it is entitled to see Plaintiffs' expert reports before its own experts are deposed.

In support of its position, Symetra relies primarily on *DOCA Co. v. Westinghouse Electric Co.*, 2011 WL 12896754 (W.D. Pa. Dec. 7, 2011), in which, as in the present case, the plaintiffs attempted to take depositions of the defendants' experts after opposing expert reports were filed but before the plaintiffs' rebuttal reports were due. The Court rejected that request. *Id.* at \*1. It also rejected the same justification that Plaintiffs now offer - that depositions will help them develop their rebuttal reports.

Generally, providing the rebuttal expert report before experts are deposed is practical. This will reduce the need to recall an expert. In addition, the Federal Rules contemplate that the determination as to whether a rebuttal expert report is necessary be based on the opposing party's expert report— not the expert's deposition.

*Id.* See also *Procongs, Inc. v. Skypatrol, LLC*, 2013 WL 11261327 (N.D. Cal. May 22, 2013) (agreeing with the plaintiff's position that "the purpose of expert depositions is to develop cross-examination for trial or for a *Daubert* motion, not to build a case for one's own expert, and that two rounds of depositions is impractical and wasteful."); *Enns Pontiac, Buick & GMC Truck v. Flores*, 2011 WL 2787729 (E.D. Cal. July 11, 2011) (rejecting the plaintiffs' request to depose opposing experts before filing their own reports and finding insufficient the plaintiffs' justification that they needed the depositions "in order to prepare their own expert reports.")

The reasoning of these cases is persuasive. The Court has repeatedly expressed a desire not to let this matter become bogged down in unnecessary delays. Because it is more efficient and economical to have a single round of depositions and will further the goal of resolving this lawsuit as expeditiously as possible, the portion of Plaintiffs' motion seeking to order Symetra to make its expert witnesses available to be deposed prior to the new deadline for rebuttal expert reports is

**DENIED.** The portion of the motion seeking to extend the time to submit their rebuttal expert reports is **GRANTED.**

**IT IS SO ORDERED.**

s/ S. Thomas Anderson  
S. Thomas Anderson  
United States District Judge

April 29, 2025